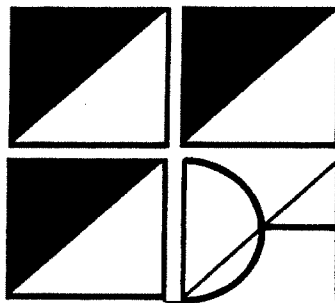


# **EXHIBIT**

# **40**

## **GENERAL CONDITIONS**



**DORMITORY AUTHORITY -- STATE OF NEW YORK**

**Main Office**  
515 Broadway  
Albany, New York 12207  
(518) 257-3000

**New York City Office**  
One Penn Plaza, 52nd Floor  
New York, New York 10119-0098  
(212) 273-5000

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## ARTICLE 1 – DEFINITIONS

Section 1.01 - The following terms as used in the Contract Documents shall be defined as follows:

**Authority** - Dormitory Authority of the State of New York, a public benefit corporation with its principal office located at 515 Broadway, Albany, New York, 12207-2964.

**Beneficial Occupancy** - The use, occupancy or operation by the Owner of the Work or any part thereof as evidenced by a notification of Beneficial Occupancy executed by the Owner.

**Client** - The entity for whom the Dormitory Authority is performing services, including subsidiaries, agents, related corporations or fiduciaries.

**Construction Completion** - Acceptance by the Owner of the Work as evidenced by a Notification of Construction Completion executed by the Owner.

**Construction Manager** - A person, persons, firm, partnership or corporation, regularly engaged in the management of construction projects, and so designated by the Owner.

**Consultant** - A person, persons, firm, partnership or corporation providing Architectural, Engineering, or other professional services, and so designated by the Owner.

**Contract** - The agreement between the Owner and the Contractor consisting of the Contract Documents including all amendments and supplements thereto.

**Contract Documents** - The Contract, Notice to Bidders, Information for Bidders, Form of Bid, General Conditions, General Requirements, Bonds, Drawings, Specifications, Addenda, Change Orders, and any supplementary data together with all provisions of law deemed to be inserted in the Contract.

**Contractor** - A person, persons, firm, partnership or corporation with whom the Contract is entered into by the Owner to perform the Work.

**Extra Work** - Any work in addition to the Work initially required to be performed by the Contractor pursuant to the Contract.

**Furnish** - To deliver to the site ready for installation.

**Install** - To unload at the delivery point at the Site and perform every operation necessary to establish secure mounting and correct operation at the proper location.

**Owner** - Dormitory Authority

**Owner's Representative** - A person, persons, firm, partnership or corporation so designated by the Owner.

**Project** - Work at the site(s) carried out pursuant to one or more sets of Contract Documents.

**Provide** - To Furnish and Install complete in place and ready for operation and use.

**Shop Drawings** - Diagrams, fabrication drawings, illustration, schedules, test data, performance charts, cuts brochures and other data which are submitted by the Contractor and illustrate any portion of the Work.

**Site** - The area within the Contract limit, as indicated by the Contract.

**Subcontract** - An agreement between the Contractor and Subcontractor for work on the Site.

**Subcontractor** - A person, persons, firm, partnership or corporation under contract with the Contractor, or under contract with any subcontractor, to provide labor and material at the site.

**Substantial Completion** - Stage of construction at which the Owner determines there is a minimal amount of the Work to be completed, or work to be corrected.

**Work** - The performance of all obligations imposed upon the Contractor by the Contract.

## ARTICLE 2 – CONTRACT DOCUMENTS

### Section 2.01 - Captions

The table of contents, titles, captions, headings, running headlines, and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect the interpretation of the provisions to which they refer.

### Section 2.02 - Conflicting Conditions

Should any provision in any of the Contract Documents be in conflict or inconsistent with any of the General Conditions or Supplements thereto, the General Conditions or Supplements thereto shall govern.

Section 2.03 - Notice and Service Thereof

Any notice to the Contractor from the Owner relative to any part of the Contract shall be in writing and service considered complete when said notice is mailed to the Contractor at the last address given by the Contractor, or when delivered in person to said Contractor or the Contractor's authorized representative.

Section 2.04 - Nomenclature

Materials, equipment or other Work described in words which have a generally accepted technical or trade meaning shall be interpreted as having said meaning in connection with the Contract.

Section 2.05 - Invalid Provisions

If any term or provision of the Contract Documents or the application thereof to any person, firm or corporation or circumstance shall, to any extent, be determined to be invalid or unenforceable, the remainder of the Contract Documents, or the application of such terms or provisions to persons, firms or corporations or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term or provision of the Contract Documents shall be valid and be enforced to the fullest extent permitted by law.

**ARTICLE 3 – INTERPRETATION OF CONTRACT DOCUMENTS**

Section 3.01 - Owner

- A. The Owner shall give all orders and directions contemplated under the Contract relative to the execution of the Work. The Owner shall determine the amount, quality, acceptability of the Work and shall decide all questions which may arise in relation to said Work. The Owner's estimates and decisions shall be final except as otherwise expressly provided. In the event that any question arises between the Owner and Contractor concerning the Contract, the decision of the Owner shall be a condition precedent to the right of the Contractor to receive any money or payment under the Contract.
- B. Any differences or conflicts concerning performance which may arise between the Contractor and other Contractors performing Work for the Owner shall be adjusted and determined by the Owner.
- C. The Owner may act through a representative designated by the Owner.